

1 (The Court opened at 9:40 a.m.)

2 THE CLERK: This is case number 13-69, United
3 States of America versus Matthew Merritt. The government is
4 present through Assistant United States Attorney Timothy
5 Doherty. The defendant is present in the courtroom with his
6 attorney David Kirby. The matter before the Court is a
7 competency hearing.

8 THE COURT: First, this is a competency hearing.
9 The Court has received the report from Dr. Wilmouth. Both
10 sides receive copies of the report?

11 MR. KIRBY: Yes.

12 MR. DOHERTY: Yes, Your Honor.

13 THE COURT: I read the report. In essence she has
14 found that Mr. Merritt is competent to stand trial, is
15 competent to consult with counsel, is fully aware of the
16 nature of the proceedings. And her recommendation is that
17 the case proceed based upon her determination that
18 Mr. Merritt was competent.

19 Does either party feel there is a need to have her
20 testify? Because, frankly, from the review of this
21 particular report, the Court feels there is no need to have
22 her testify. You tell me.

23 MR. DOHERTY: From the government's perspective we
24 don't need Dr. Wilmouth to testify. And the standard of
25 proof here is preponderance of the evidence. The Court can

1 certainly consider Dr. Wilmouth's report in its
2 determination. So we don't think that there's a need for
3 her to come here and testify. We don't have any specific
4 questions.

5 It's also my understanding that the defense is not
6 going to contest the competency determination as set forth
7 in Dr. Wilmouth's report.

8 THE COURT: Is that correct, Mr. Kirby?

9 MR. KIRBY: Yeah, that, yes, sir, that's right.
10 We, I've read the report. And we are reassured by it. And
11 a lot of concerns that I had the last time we appeared
12 before you have been allayed over, through that report and
13 through further discussions with Mr. Merritt.

14 So, no, we're, I think we're ready to go forward
15 and do not contest competency.

16 THE COURT: All right. The Court will accept the
17 report of Dr. Wilmouth, find by a preponderance of the
18 evidence that Mr. Merritt is competent to stand trial.

19 Now, the Court has been given a plea agreement
20 signed by both the government and Mr. Merritt. And my
21 question is, is Mr. Merritt prepared to enter a plea
22 pursuant to the agreement, in which case we'll go to a
23 change of plea, or does the defense request additional time?

24 MR. KIRBY: No, Your Honor. We're prepared to go
25 forward with the plea today.

1 THE COURT: All right. Mr. Merritt, would you
2 stand, please?

3 MR. MERRITT: Sure.

4 THE COURT: I'm going to ask you a whole series of
5 questions. If you don't understand anything that I ask let
6 me know and I'll be glad to explain. And also if you wish
7 to speak with Mr. Kirby let me know that, I'll provide you
8 an opportunity to speak with him. Do you understand that?

9 MR. MERRITT: Yes, sir.

10 THE COURT: I'm also going to ask that you be
11 placed under oath and would advise you if you answer any
12 questions falsely from this point forward you could be
13 prosecuted for perjury or false swearing. Do you understand
14 that?

15 MR. MERRITT: Yes, Your Honor.

16 THE COURT: Would you place Mr. Merritt under
17 oath, please?

18 M A T T H E W M E R R I T T, The Witness,
19 after being duly sworn, was examined and testified as
20 follows:

21 DIRECT EXAMINATION BY THE COURT:

22 Q. Would you state your full name?

23 A. Matthew J. Merritt, Junior.

24 Q. And how old are you, Mr. Merritt?

25 A. Sir?

1 Q. How old are you?

2 A. I'll be 82 September the 15th.

3 Q. And how far did you go through school?

4 A. College and graduate school.

5 Q. Have you ever been hospitalized for drug or alcoholic
6 treatment?

7 A. No, sir.

8 Q. Are you currently or recently under the care of a
9 physician or psychiatrist?

10 A. Yes.

11 Q. And for any particular ailments or illnesses?

12 A. Cardiology.

13 Q. Are you receiving any medication?

14 MR. KIRBY: Your Honor, I mean, I think there are
15 a few things. His right eye, he's, he just saw his eye
16 doctor. I think he's losing or has lost sight in his right
17 eye. I mean, I think there are a number of issues that are
18 going on other than just cardiology.

19 Q. So there's cardiologiy, colloquy heart issues. There's
20 an issue with your eye. What other issues do you have for
21 which you are receiving treatment?

22 A. Well, um, the urologist for some bladder infection.
23 And, you know, minor kind of a thing.

24 Q. You taking any medication?

25 A. Yes, sir.

1 Q. What is that?

2 A. You shouldn't ask that. I don't remember what I take.
3 I have folks take my medication put together at home.

4 Q. Well, apparently a person puts all of your medication
5 in a box --

6 A. Yes, my daily, yeah.

7 Q. -- per day?

8 When did you last take those medications?

9 A. This morning.

10 Q. Were any of those medications related to opiates, for
11 instance, pain medications?

12 A. No, sir.

13 Q. As a result of taking those medications, do those
14 medications impact your ability to understand what's
15 happening today?

16 A. No, Your Honor.

17 Q. Do you, in fact, understand what's happening today?

18 A. I do, Your Honor.

19 THE COURT: Do either counsel for the defendant or
20 government of any reason to believe that Mr. Merritt could
21 not freely and voluntarily waive his right to proceed by
22 indictment and enter a plea to the information?

23 MR. DOHERTY: No, Your Honor.

24 MR. KIRBY: No, Your Honor.

25 Q. Have you received a copy of the information?

1 A. I have, Your Honor.

2 Q. Do you wish that I read the charges in the information
3 or would you waive their reading?

4 A. I would waive that, sir.

5 Q. Have you had an adequate opportunity to go over these
6 charges with Mr. Kirby?

7 A. I have, sir.

8 Q. Are you satisfied with the representation he's
9 provided?

10 A. Most definitely.

11 Q. Do you understand that you have a right proceed by an
12 indictment of a grand jury but that you could waive that
13 right and proceed on the information?

14 A. I do understand that.

15 Q. And do you understand that a grand jury is made up of
16 between 16 and 23 people and that at least 12 grand jurors
17 would have to find there's probable cause to believe that
18 you committed the offense for which you have been charged?

19 A. I do.

20 Q. Do you wish to waive your right to proceed by
21 indictment and proceed on the information?

22 A. I do, sir.

23 Q. And are you doing that freely and voluntarily?

24 A. I am, sir.

25 THE COURT: Mr. Kirby, do you have a waiver form?

1 MR. KIRBY: Yes, I do.

2 THE COURT: Okay.

3 (Form happened had to the Court.)

4 Q. All right. The Court is in receipt of a waiver of
5 indictment form which has been signed by Mr. Merritt and
6 Mr. Kirby as well. The Court will execute the form, find
7 that the waiver has been made freely and voluntarily and
8 knowingly and will accept the waiver.

9 Now, has Mr. Kirby explained to you the nature and
10 the elements of each of the charges here together with any
11 defenses that you may have?

12 A. Yes, he has, sir.

13 Q. There are two separate charges. Do you understand if
14 this matter was to go before a jury that the government
15 would have to prove beyond a reasonable doubt that from at
16 least 2004, to the fall of 2011, in Vermont, and elsewhere,
17 you knowingly and willfully executed a scheme to defraud a
18 healthcare benefit program, namely, the Vermont Medicaid
19 Program, in connection with the delivery of payment of
20 healthcare benefits and items and services? You understand
21 that?

22 A. I do, sir.

23 Q. And do you understand the maximum penalty provided for
24 by that statute is a period of imprisonment of not more than
25 three years, a term of supervised release of not more than

1 one year, a fine of not more than \$250,000, together with a
2 special assessment of \$100.

3 MR. KIRBY: Your Honor?

4 THE COURT: Yes.

5 MR. KIRBY: Did you say a term of imprisonment of
6 three years?

7 THE COURT: Yes. Oh, I'm sorry, 10 years.

8 MR. KIRBY: Are you talking about the healthcare
9 fraud?

10 THE COURT: Yes. It's 10 years and three years,
11 right. Right.

12 Let me go through that again. Do you understand
13 that the maximum penalty is a period of imprisonment of up
14 to 10 years, up to a three year period of supervised
15 release, a fine of not more than \$250,000 together with a
16 \$100 special assessment?

17 THE WITNESS: I do understand.

18 Q. And you understand the Court has the power, if it deems
19 it an appropriate, to order that you pay for all costs of
20 imprisonment, probation or supervised release?

21 A. No.

22 Q. Pardon me?

23 A. I don't think I understood that.

24 Q. Do you understand the Court has the power, if it deems
25 it appropriate, that you pay for all costs of imprisonment,

1 probation and supervised release?

2 A. I understand, sir.

3 Q. And as to count one how do you wish to plead, guilty or
4 not guilty?

5 A. Guilty.

6 Q. Now, in regard to count two, do you understand that if
7 this matter were to go to trial that the government would
8 have to prove beyond a reasonable doubt that on or about
9 October 15, 2009 you willfully subscribed a 2008 Federal
10 Income Tax Form 1040, which was verified by written
11 declaration that it was made under the penalties of perjury,
12 that you did not believe those forms to be true and accurate
13 as to every matter that was filed with I.R.S., essentially
14 you misstated your taxable income. Do you understand that?

15 A. I do, sir.

16 Q. And do you understand the maximum penalty provided for
17 by count two, and that's a period of imprisonment of not
18 more than three years, a period of supervision of up to one
19 year, a maximum possible fine of \$250,000, together with a
20 \$100 special assessment?

21 A. Yes, sir.

22 Q. And, again, do you understand the Court has the power,
23 if it deems it appropriate, to order that you pay for all
24 costs of imprisonment, probation or supervised release?

25 A. I do, sir.

1 Q. And as to count two how do you wish to plead, guilty or
2 not guilty?

3 A. Guilty.

4 Q. I'm going to explain to you all of your constitutional
5 rights, together with the fact that you would be waiving
6 those rights by pleading guilty today. I ask that you
7 listen carefully to the rights as I explain them because at
8 the end I'm going to ask that you acknowledge understanding
9 those rights together with the fact that you would be
10 waiving those rights by pleading guilty today. Do you
11 understand that?

12 A. I do, sir.

13 Q. Do you understand that you have a right to plead not
14 guilty and to persist in that plea, that you would then have
15 the right to a trial by jury, at trial you'd be presumed to
16 be innocent and the government would have to prove your
17 guilt beyond a reasonable doubt, you'd have the right to the
18 assistance of counsel for your defense, the right to see and
19 hear all witnesses and have them cross-examined in your
20 defense, the right on your own part to decline to testify if
21 you voluntarily chose to do so, the right to the issuance of
22 subpoenas to require the attendance of witnesses to testify
23 in your defense, the right to testify and present evidence?

24 A. I do, sir.

25 Q. Do you understand those rights?

1 A. Yes, sir.

2 Q. Do you understand if you chose not to testify or put on
3 any evidence those facts could not be used against you in
4 any way?

5 A. I do, sir.

6 Q. And do you understand that if you plead guilty and I
7 accept your plea that you would be waiving your right to a
8 trial and the other rights I've just explained, there will
9 be no trial, I'll enter a judgment of guilty and sentence
10 you on the basis of your plea after considering a
11 Pre-Sentence Report?

12 A. I do, sir.

13 Q. And do you understand that you would be waiving your
14 right against self-incrimination and your right to appeal
15 the merits of your case?

16 A. I do, sir.

17 Q. Has anyone threatened you or anyone else or forced you
18 in any way to plead guilty today?

19 A. No, sir.

20 Q. The Court is in receipt of a plea agreement which bares
21 your signature on Page 7, Page 8 actually. Actually, it's
22 Page 9. Is that your signature?

23 A. It is, sir.

24 Q. On the last page?

25 A. Yes.

1 Q. Prior to signing the agreement did you read it?

2 A. Yes, I did, sir.

3 Q. Did you go over the agreement with Mr. Kirby?

4 A. Yes, sir.

5 Q. And did you understand it?

6 A. Yes, sir.

7 Q. All right. Let me go through the high points of the
8 agreement just to make sure that my understanding is
9 consistent with yours. And tell me if it's not. This is on
10 Page 8.

11 According to this agreement you would waive your
12 right to proceed by indictment, you'd enter a plea of guilty
13 to counts one and two of the information, the maximum
14 penalties I've described to you already, you've agreed not
15 to commit any other crimes whether federal, state or local,
16 you've agreed to pay the \$100 special assessment in regard
17 to both of these offenses. That's a total of \$200. And
18 there are a number of specific provisions in your plea
19 agreement that both you and the government agreed to.

20 The first is that you agree to the civil
21 settlement agreement which was attached to this plea
22 agreement. And my understanding is that that has already
23 been completed, is that correct? Payment has been paid?

24 A. Yes, sir.

25 MR. KIRBY: Yes.

1 MR. DOHERTY: Yes, Your Honor.

2 Q. Okay. So that civil agreement has been accepted. That
3 you also stipulate and agree that there's an additional tax
4 due and owing for 2008 and 2009 tax years of 48,338 and
5 \$27,695 respectively. And do you know if those have been
6 paid back?

7 MR. KIRBY: They haven't yet. We're trying to
8 make arrangements right now, but, to get a, a form that can,
9 we can pay them back. They will be paid back.

10 Q. So, clearly, your understanding is that you've got
11 these tax obligations, you agree to the tax obligations in
12 this settlement, and it's in those dollar amount?

13 A. Yes, sir.

14 Q. This is also part of a global settlement underlying the
15 entire investigation and including all of the other
16 co-defendants being brought in by the government. In
17 addition, if you abide by the terms of the agreement the
18 government agrees to do the following for you: First, they
19 are not prosecute you in Vermont for any other offenses
20 known by them as of the date of the signing of this
21 agreement which relates to your fraudulent activity and also
22 your income tax related charges. They'll recommend a
23 sentence at the low end of the guideline range if the final
24 offense level is 15 or above. They will recommend that you
25 receive credit for acceptance of responsibility provided

1 that you can truthful and honest with the probation officer
2 during the pre-sentence process and no additional
3 information comes to the attention to the government which
4 bares on the question of acceptance of responsibility. And,
5 finally, there is what is essentially a cap on the sentence
6 pursuant to Rule 11 Cl C. in this plea agreement. And I'll
7 explain to you exactly what that means.

8 The cap is 24 months. Essentially, if the Court,
9 after reviewing the Pre-Sentence Report and hearing the
10 argument of counsel, wishes to impose a sentence in excess
11 of 24 months then you would have the right to withdraw your
12 guilty plea, return to a not guilty plea and then proceed to
13 sentencing.

14 If the Court was to accept the plea agreement and
15 be bound by that cap of not imposing a sentence in excess of
16 24 months then you would not have the right to withdraw your
17 guilty plea.

18 Essentially, that's what an 11 ClC plea means. In
19 other words, if I will tell if I would intend to impose a
20 sentence in excess of 24 months then you would have the
21 right to withdraw your guilty plea.

22 A. I understand.

23 Q. Do you understand that?

24 A. I understand, sir.

25 Q. All right. In addition, the government has indicated

1 that they have not made any promises or predictions as to a
2 sentence you're likely to receive with the exception of it
3 cannot be in excess of 24 months without your ability to
4 withdraw your plea. And if the government determines that
5 you violated this agreement they reserve the right to
6 withdraw from the agreement and prosecute you for any
7 offenses they deem appropriate, or alternatively, withdraw
8 from your obligations under the agreement while requiring
9 you to maintain your guilty plea. Do you understand that?

10 A. I understand.

11 Q. In sum and substance those are the major parts of the
12 agreement. Is that consistent with your understanding?

13 A. It is.

14 Q. Have there been any other promises or representations
15 made by anyone that's induced you to plead guilty today?

16 A. No, sir.

17 Q. Have you gone over the guidelines with Mr. Kirby?

18 A. Yes, sir.

19 Q. Has anyone made any promises or predictions as to what
20 sentence you are likely to receive?

21 A. No, sir.

22 Q. Do you understand that any promises or predictions as
23 to what sentence you're likely to receive are not binding
24 upon the Court? Based upon your guilty plea I could impose
25 a sentence up to the maximum permitted by law and that you

1 would not have the right to withdraw your plea if those
2 predictions proved to be inaccurate?

3 A. I do, sir.

4 Q. And you understand that --

5 MR. KIRBY: Your Honor, that would be all bounded
6 by the 24 months cap?

7 Q. That's correct. All with that restriction pursuant to
8 a Rule 11 C1C that the Court could not impose a sentence
9 beyond 24 months without you being able to withdraw your
10 guilty plea. Do you understand that?

11 A. I do, sir.

12 Q. Do you understand that in some circumstances the Court
13 has the power to impose a sentence that is more severe or
14 less severe than the guidelines call for, if I were to
15 impose a sentence that was nor severe you still could not
16 withdraw your guilty plea unless it was in excess of 24
17 months? Do you understand that?

18 A. I understand, sir.

19 Q. And do you understand the guidelines are now advisory
20 in nature and the Court will consider all of the factors
21 under 18 U.S.C., Section 3553(a) in determining what is the
22 appropriate sentence? Do you understand that?

23 A. I understand, sir.

24 Q. And, finally, in the federal system parole is
25 abolished. If you are sentenced to prison you will not be

1 released on parole. Do you understand that?

2 A. I didn't understand that, sir.

3 Q. There is no parole system in the federal system. In
4 other words, there's no parole board, there's no releasing
5 somebody on parole. If you are sentenced to prison you
6 would do the prison term and then be released upon the
7 completion of your sentence, there is no parole.

8 A. I understand that.

9 Q. Do you understand that? All right.

10 Now, I'm going to ask Mr. Doherty to provide a
11 factual basis for the plea, to describe what happened here.
12 I'd ask that you listen carefully to his explanation of the
13 facts because at the end I'm going to ask whether those
14 facts are accurate. All right?

15 MR. KIRBY: Can I have one moment, Your Honor?

16 THE COURT: Yes.

17 (Defendant conferring off the record with the
18 defendant)

19 MR. KIRBY: Your Honor, could Mr. Merritt sit?
20 His legs are bothering him.

21 THE COURT: Yes, right.

22 MR. MERRITT: Thank you.

23 THE COURT: In fact, you can remain seated Mr,
24 Merritt. Okay. All right.

25 MR. DOHERTY: Thank you, Your Honor. Your Honor,

1 if this case were to go to trial the government believes it
2 could prove the following beyond a reasonable doubt: For
3 many years, including the entire time period pertinent to
4 this case, Mr. Merritt, Junior served as the President of
5 the Bennington School, of Bennington School Incorporated, a
6 corporation that ran a residential school located in
7 Bennington, Vermont that provided a variety of therapeutic
8 and educational services for socially, emotionally
9 challenged boys and girls.

10 The tuition and other expenses for the vast bulk
11 of Bennington School Students was paid by state and local
12 agencies who had a legal responsibility for the education
13 and care of those students, including the State of Vermont,
14 which placed many students at Bennington School.

15 The State of Vermont, through the Division of Rate
16 Setting, which is within the Agency of Human Services, set
17 rates for payments for tuition and other expenses for
18 Vermont boys and girls enrolled at the Bennington School.

19 From at least 2004 until 2008, when the State of
20 Vermont froze its rates, the rate was based on a review by
21 the Division of Rate Setting of an annual submission from
22 Bennington School describing its expenses running the
23 school.

24 In 2008, when the rates were frozen, the Division
25 of Rate Setting, sometimes referred to as DRS, replied upon

1 Bennington School's prior submissions for its annual rate
2 determinations.

3 Mr. Merritt, Junior, and other Bennington School
4 managers, were aware that the Division of Rate Setting
5 excluded some expenses from its rate calculation, including
6 what the Division of Rate Setting deemed to be excessive or
7 unreasonable compensation to managers.

8 Mr. Merritt, Junior understood that higher
9 allowable expenses would support a higher rate and thereby
10 greater payments from the State of Vermont to Bennington
11 School.

12 The State of Vermont used multiple funding sources
13 to pay Bennington School for students, including funds from
14 the Agency of Education and from Medicaid. Almost all of
15 Vermont's Bennington School students were eligible for
16 Medicaid. And Medicaid funded the majority of payments that
17 flowed from Vermont to Bennington School because all
18 Bennington School students received healthcare treatment.

19 The Vermont Medicaid Program is jointly funded by
20 both the federal government and the State of Vermont.

21 From at least 2004 to 2011 Mr. Merritt, Junior
22 supervised the system that paid certain officers and
23 employees of Bennington School compensation that was outside
24 of their regular wages. This compensation included
25 different ways that certain officers and employees received

1 personal benefits, including cars, gasoline for a vehicle,
2 oil for a personal residence, as well as corporate payments
3 on credit cards used for personal expenses.

4 Several officers and employees had set amounts of
5 personal expenses that were paid each year from Bennington
6 School. These personal expenses were falsely listed on the
7 books and records of Bennington School as legitimate
8 corporate expenses.

9 These false entries were also included on the
10 Bennington School records submitted to the Division of Rate
11 Setting for calculation of the payments from the State of
12 Vermont to Bennington School.

13 From at least 2004 to 2011, under Mr. Merritt,
14 Junior's direction, Bennington School falsely reported
15 hundreds of thousands of dollars of expenses as allowable
16 expenses when, in fact, they were not.

17 The Vermont Division of Rate Setting has
18 calculated that these false reports cost the State of
19 Vermont to overpay Bennington School in excess of 3.5
20 million dollars.

21 Through this conduct, in the District of Vermont
22 and elsewhere, Mr. Merritt, Junior, knowingly and willfully
23 executed a scheme to defraud a healthcare benefit program,
24 namely the Vermont Medicaid Program, in connection with the
25 delivery of and payment for health benefits, items and

1 services, namely payments for Vermont students for services
2 received at the Bennington School by causing the submission
3 of false and fraudulent expense reports regarding the
4 operations of Bennington School. He did this in violation
5 of 18 U.S.C., Section 1347.

6 Moreover, Mr. Merritt, Junior was himself one of
7 the Bennington School Officers who received compensation
8 from Bennington School outside of his regular wages in the
9 form of paid personal expenses. Mr. Merritt, Junior
10 regularly failed to report this income on his federal income
11 tax form 1040.

12 For example, as described in count two of the
13 information, on or about October 15 of 2009 Mr. Merritt,
14 Junior willfully subscribed a 2008 Federal Income Tax Form
15 1040 stating that his taxable income was \$228,886 when he
16 knew and believed that he had earned income in excess of
17 that amount. This was in violation of 26 U.S.C., Section
18 7206 (1).

19 THE COURT: All right. Mr. Merritt, is that what
20 happened? You can actually remain seated. That's fine.

21 THE WITNESS: That's all right. I'm fine. Yes,
22 that's what happened.

23 THE COURT: And could the government prove those
24 facts, Mr. Kirby?

25 MR. KIRBY: Yes, I think they could.

1 THE COURT: You can actually be seated at this
2 point. Since you acknowledge that you are in fact guilty as
3 charged, that you know your right to a trial, the maximum
4 possible sentence, since you are voluntarily pleading
5 guilty, I will accept your guilty plea.

6 Do you still wish to plead guilty at this point?

7 MR. MERRITT: Yes, sir.

8 THE COURT: And are you pleading guilty freely and
9 voluntarily with a full understanding of the nature of the
10 charges and the rights that you are waiving?

11 MR. MERRITT: I am, sir.

12 THE COURT: Okay. The Court having questioned the
13 defendant and counsel on the offer of his, the defendant and
14 counsel having advised the Court they have conferred
15 concerning the offered plea and all aspects of the charges
16 against the defendant, any defenses he may have, the Court
17 having questioned the defendant and counsel on the offer of
18 his plea, the Court also having advised that the, or
19 observed the defendant making his answers, his apparent
20 intelligence and his attitude, and the Court having observed
21 he does not appear to be under the influence of any
22 medication, drug or other substance which may affect his
23 judgment, the Court hereby finds that the offer of the plea
24 of guilty has a factual basis, is free of any coercive
25 influence of any kind, is competently and voluntarily made

1 with full knowledge of the charges against him and the
2 consequences of the plea, there have been no promises of any
3 kind made to him by anyone apart from the statements setd
4 forth in plea agreement and no threats or coercion have been
5 exerted upon him in any manner.

6 The Court will accept the guilty plea, defer
7 acceptance of the plea agreement, order a Pre-Sentence
8 Report. Sentencing is now scheduled for Monday, December
9 2nd at 9:30.

10 Now, the Court had reviewed in the past a report
11 from the Pre-Trial Services Office, which I have it here
12 recommending release subject to conditions. Does the
13 Government have any objection to his release subject to the
14 conditions recommended by Pre-Trial Services?

15 MR. DOHERTY: No.

16 THE COURT: Any objection to those conditions,
17 Mr. Kirby?

18 MR. KIRBY: I don't believe I've seen the report
19 or the conditions, but I assume that they are the standard
20 conditions.

21 THE COURT: They are standard conditions, except
22 they are standard conditions. The defendant will be
23 released subject to the following conditions: That he
24 promises to appear in court as required. And that also
25 under eight, Section 8, that he report to Pre-Trial Services

1 as directed. That he refrain from possessing a firearm,
2 destructive device or other dangerous weapon. That he
3 report as soon as possible to Pre-Trial Services any contact
4 with law enforcement personnel including, but not limited
5 to, arrest, questioning or traffic stops. And that he
6 maintain contact with his attorney.

7 Any objection to those conditions?

8 MR. KIRBY: Your Honor, I don't have an objection
9 to those conditions, but the firearm, we'll have to make
10 arrangements, I'm sure that Mr. Merritt has some firearms at
11 his home so -- it will take us a day or two to deal with
12 that.

13 THE COURT: That needs to be resolved immediately.

14 All right. Mr. Merritt, you are being released
15 subject to the conditions. And I just want to tell you it
16 is extraordinarily important that you abide by the
17 conditions, that you maintain contact with your Pre-Trial
18 Services Officer. All right. Thank you.

19 (The Court recessed at 1010 a.m.)
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